

### Instructions for Filing an Emergency Motion

Counsel should read the following instructions prior to completing the attached form. After the form is completed please transmit the completed form to the Clerk's Office by facsimile machine at (215)597-6956.

**SUBMISSIONS TO THE COURT BY FACSIMILE MACHINE  
ARE ONLY PERMITTED UPON EXPRESS AUTHORIZATION  
BY THE CLERK. SEE 3RD CIR. LAR 25.1 (July 1, 1993)**

The Court's policy is that emergency motions should be presented to the Clerk's office in the first instance, rather than to a single judge. Any requests that a motion be directed to a single judge should, except in extraordinary circumstances, be cleared with the Clerk's office before approaching the judge directly. In the event that a motion is submitted to a single judge, it is the Court's practice that any relief granted by that judge will be limited only to that necessary to retain the status quo until the matter may be considered by a full panel of the Court.

Before filing an emergency motion, please make sure that: (1) the attorney making the motion is a member of the Third Circuit Court of Appeal's Bar; and, (2) that a notice of appeal has been filed and all applicable fees paid.

The following steps must be complied with when filing an emergency motion:

(1) The following documents must be submitted with the motion:

(a) an original and three (3) copies of the motion;

(b) certified copies of the following documents:

(i) the notice of appeal;

(ii) the district court

docket;

(iii) the order appealed

from

(c) and pursuant to F.R.A.P. 26.1

and 3rd Cir LAR Rule 26.1 (July 1993), an original

and four (4)

statement for                      copies of a disclosure  
the party represented.

(2) Opposing counsel must be hand served. If time  
constraints prohibit  
actual service of the motion                      in sufficient time for  
other parties to the appeal                      to respond, the moving party  
must notify the other                      parties of the filing of the motion  
by facsimile                      machine or orally. 3rd Cir.  
LAR 27.2 (July 1,  
1993);

(3) Pursuant to Chapter 10.2.2 of the Internal

Operating Procedures, the Clerk may direct that the emergency motion be hand-delivered or delivered via facsimile to the judge designated to dispose of the motion or to some other location.

The Court should receive as much advance notice as possible that an emergency motion is to be filed and the motion must be filed as far in advance of the date on which a decision is needed as possible. Counsel owes a duty of candor to the Court in regards to what is, and what is not, an actual emergency situation.

If a stay is requested, a copy of the district court's order denying the stay and the district court's statement of reasons for the denial must also be submitted in addition to those documents listed above. See F.R.A.P. Rule 8 and 3rd Cir. LAR 8.1 and 18.1 (July 1, 1993).

If the motion is in the nature of a motion to expedite the motion must be filed within fourteen (14) days of the date the notice of appeal was filed. See 3rd Cir. LAR 4.1 (July 1, 1993). The motion must include the following information: (1) a statement of whether transcripts are needed and (2) a proposed briefing schedule. If unanticipated events lead to the need to expedite the appeal, a motion to expedite may be filed more than fourteen days after the date on which the notice of appeal was filed. The motion must be filed within fourteen days of the emergency. Any such motion must describe the circumstances which led to the filing of the motion.

REV. 7/93

**Emergency Motion Information Sheet**

Date \_\_\_\_\_

Name \_\_\_\_\_

Law Firm \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Telephone No. \_\_\_\_\_

Facsimile No. \_\_\_\_\_

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Opposing Counsel \_\_\_\_\_

Law Firm \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Telephone No. \_\_\_\_\_

Facsimile No. \_\_\_\_\_

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Caption

D.C. No. \_\_\_\_\_

District Court location:

Notice of appeal filed:

C.A. No. \_\_\_\_\_

District Court Judge \_\_\_\_\_

Motion for \_\_\_\_\_

If the motion is related to bail please answer the following:

Defendant is \_\_\_\_ is not \_\_\_\_ incarcerated

If Defendant is not incarcerated - Report date \_\_\_\_\_

Date by which the Court must act \_\_\_\_\_

Nature of the emergency

